

1 MINUTES

2
3 The State Board of Elections board meeting was held on Tuesday, November 7,
4 2017. The meeting was held in the Martha Brissette Conference Room in the Washington
5 Building in Richmond, Virginia.

6 In attendance, representing the State Board of Elections (the Board) were James
7 Alcorn, Chairman; Clara Belle Wheeler, Vice-Chair; and Singleton McAllister, Secretary.
8 Also in attendance, representing the Department of Elections (ELECT) was Edgardo
9 Cortés, Commissioner and Anna Birkenheier, Assistant Attorney General. Chairman
10 Alcorn called the meeting to order at 8:17AM.

11 The purpose of this meeting was for the Board to receive updates on any issues or
12 pertinent information on Election Day. Edgardo Cortés, Commissioner of ELECT, noted
13 that representatives from the Democratic and Republican parties and representatives from
14 the Office of the Attorney General were present at the Department all day to assist.

15 Commissioner Cortés shared what issues occurred at polling places after the polls
16 opened at 6:00AM. The Commissioner noted two precincts in the City of Richmond
17 opened at 6:30AM; one precinct's voting equipment was delivered to the wrong location
18 and had to be relocated, and the other precinct required additional keys for the equipment
19 cage as the Chief Officer of Election's bag had been stolen the night before and new keys
20 had to be made and deployed. The Commissioner said one precinct in Prince William
21 County had issues with optical scanning equipment, though it was not clear what those
22 issues were and ELECT was waiting for more information. The Commissioner relayed an
23 issue in the City of Fredericksburg, where there was a minor dispute over which
24 representatives are authorized to sign letters for party representatives. Commissioner
25 Cortés stated this issue only arises when there is more than one party representative in a
26 precinct, and noted that anything signed by a local party chair will take precedence.

27 The Commissioner reviewed an issue in Staunton County, where there were issues
28 with the electronic pollbooks (EPBs), though the issue was resolved by 6:15AM. There
29 was an electoral board (EB) member on site to resolve the issue, and ELECT would receive
30 more information later in the day. The City of Manassas Park received a call from a party
31 representative claiming election officials were not repeating voters' names back to the

32 voters loudly or clearly enough, if at all. Commissioner Cortés was unclear on the details,
33 but the issue was resolved.

34 Chairman Alcorn clarified the City of Richmond precincts were now open, and
35 Commissioner Cortés verified they were. Secretary McAllister asked if there were any
36 issues with Fairfax County and Commissioner Cortés replied there were not. The
37 Commissioner noted the complaints received so far were not about Election Day, but rather
38 issues that arose during absentee voting or unverified rumors. Online complaints were
39 forwarded to GRs for immediate resolution, or else escalated to ELECT.

40 Vice Chair Wheeler addressed GR concerns about security and the possibility of
41 disruptions at the polling places, as it is the election officials' responsibility to preserve
42 order in the polling places. The Vice Chair noted GRs are working with local authorities,
43 and that authorities were stationed at polling places to give voters a sense of security.
44 Commissioner Cortés stated ELECT informed GRs to contact local law enforcement to
45 ensure safety for election officials and voters during Election Day.

46 The Commissioner shared ELECT worked with the Virginia Department of
47 Transportation (VDOT), the Virginia Department of Mines and Minerals, law
48 enforcement, and the Virginia Department of Emergency Management to prepare for
49 Election Day. Additionally, ELECT worked with representatives from the Voter Registrars
50 Associations of Virginia (VRAV), the Virginia Electoral Board Association (VEBA), and
51 federal partners at the Department of Homeland Security (DHS). Commissioner Cortés
52 shared that ELECT installed a statewide emergency notification system to communicate
53 with GRs and EBs about timely and important issues via text message, email, and voice
54 call. The notification system ran independently of the state network, so would be able to
55 run were there issues with the state network. The Commissioner also shared that the
56 Virginia Election and Registration System (VERIS)'s servers were replaced around
57 September 20, which created an increase in stability and led to a substantial decrease in
58 performance related complaints. Commissioner Cortés shared that from August 1, 2017
59 until September 23, 2017 there were 70 help desk tickets related to performance issues.
60 Since installation of the new servers, there have been no tickets related to performance
61 issues. This replacement was done with the additional funding granted to ELECT by the
62 General Assembly in 2016.

63 Commissioner Cortés shared that the Belfer Center at Harvard was present to
64 observe ELECT during Election Day. The Belfer Center has a bi-partisan project related
65 to creating materials and information for election officials around the country to help them
66 respond to cyber incidents and other election issues. Caitlin Conley from the Belfer Center
67 shared that the project is a team of about 40 IT security, campaign, and public policy
68 experts that are collaborating on a playbook to deliver to state election officials and
69 organized by commonalities between all 50 states. The team aims to provide best practices
70 and recommendations on how to close security gaps in the digital domain, and are also
71 currently present in Colorado and New Jersey.

72 Secretary McAllister asked when the project may be available. Ms. Conley said
73 the team aims to have it released in February, but will need to have it released by no later
74 than April for use by state election officials. Ms. Conley mentioned a trainer simulation
75 exercise where individuals can undergo a training on how to do a simulation and then bring
76 that training to instruct others in Virginia.

77 Commissioner Cortés noted other work leading up to Election Day involved
78 working closely with DHS, which has offered a number of resources to state offices to help
79 with a number of assessments. DHS is also part of the law enforcement contingent working
80 with ELECT and assisting in monitoring cyber security.

81 Chairman Alcorn motioned that *the Board recess and reconvene at 1:00PM*. Vice
82 Chair seconded the motion and the motion passed unanimously.

83 The Board reconvened at 1:16PM. Commissioner Cortés relayed a phone call from
84 the City of Fredericksburg about a districting issue. Over a year ago, the City of
85 Fredericksburg had some district boundary issues where some citizens were assigned to
86 the wrong precinct. ELECT and EB members drove around the whole district to figure out
87 which boundaries were where and which voters were in which districts. The Commissioner
88 noted this is the first call ELECT has received in regards to this issue. The Commissioner
89 noted precinct designations are in the Code and are written as they were in 2011— these
90 designations do not reflect what the current boundaries are or how the precincts are
91 currently formed. ELECT will lend as much support and guidance as possible, but the
92 locality is responsible for figuring out which voters are assigned where.

93 Chairman Alcorn asked what advice should be given if a voter is in the right
94 precinct but in the wrong house district. Commissioner Cortés informed the Board that
95 ELECT is working with the locality on a solution. Secretary McAllister asked how large
96 of a problem has this been for the City of Fredericksburg to date. Commissioner Cortés
97 said it is unknown how many voters are in the affected street segment, since it is unknown
98 what kind of housing is on the street segment. It was gathered from the phone call with
99 the City of Fredericksburg that two or three voters called to complain, so ELECT has been
100 working together with the locality towards a solution.

101 Anna Birkenheier, Assistant Attorney General, suggested looking into what legal
102 options may be open to get the voters the correct ballot styles and be sure the voters are
103 casting the right ballots. Vice Chair Wheeler expressed concern that Election Day was
104 halfway over and some voters may have voted in the wrong district unknowingly. The
105 Vice Chair asked how the issue wasn't predicted and how district lines weren't fully
106 understood before ballots were created and printed.

107 Commissioner Cortés said provisional ballots would not be a good solution to this
108 issue as the voters were not at fault for the confusion and districting. The Commissioner
109 suggested giving the voter the ballot for the district they are registered for even if they
110 arrive at a polling place in the wrong district. Vice Chair Wheeler pointed out the Board
111 was not sure where the boundary lines are, and asked if the pollbooks could be reset at 1:30
112 PM for the affected blocks; this would ensure future affected voters coming in are casting
113 the correct ballots, but would not remedy issues from earlier in the day.

114 Commissioner Cortés said the locality has a new EB and a new GR, and noted it is
115 up to the locality where the precinct boundaries are and whether voters are in the right
116 district or not. Chairman Alcorn agreed, but stated it is the Board's responsibility to
117 determine which ballot affected voters should vote on. The Commissioner recommended
118 that advice is not given until a solution is reached.

119 Vice Chair Wheeler asked if it is possible to create a map with the precinct
120 boundaries with the concerned districts and provide it to the City of Fredericksburg.
121 Commissioner Cortés said part of the issue was the locality continued to refer to the Code
122 book, which does not explain how the precincts are compromised. Chairman Alcorn
123 restated the proposed options for voters who may be in the wrong district: for the voters to

124 receive the ballot style of that district, for them to receive the ballot style of the correct
125 district, to give them the ability to choose which ballot style to vote, or to vote
126 provisionally.

127 Vice Chair Wheeler asked if ELECT has the ability to look at the precinct
128 boundaries with these districts so they can see what the City of Fredericksburg should be
129 seeing and tell the City of Fredericksburg which district boundaries and ballot styles they
130 should be using. Commissioner Cortés said he would ask IT.

131 Chairman Alcorn suggested giving the voters the updated ballot and putting that
132 ballot in a provisional ballot envelope. The Chairman suggested checking if the voter is in
133 the right district; if the voter is in the wrong district, the election officials should provide
134 the voter with the correct ballot style according to which district they should be in and then
135 put that ballot in a provisional ballot envelope. The Vice Chair and Secretary agreed with
136 the suggestion. Vice Chair Wheeler also suggested giving the locality the aforementioned
137 maps.

138 Commissioner Cortés recommended the Board discuss a recommendation
139 thoroughly with counsel to be sure there will not be legal issues. Secretary McAllister
140 asked if the Commissioner wanted to wait to give a recommendation until meeting with
141 counsel, and the Commissioner said yes. Vice Chair Wheeler encouraged an open session
142 for counsel, but Ms. Birkenheier asked for more time to explore the possible legal issues.
143 Another representative from the Office of the Attorney General (OAG) stated the the City
144 of Fredericksburg EB asked to meet with OAG and the city attorney. The Commissioner
145 suggested that while the locality figures out whether voters are in the right district or not,
146 counsel can review the Board's proposal and have a response ready. Commissioner Cortés
147 would also speak to IT about providing the locality with the proposed maps. The Board
148 agreed to wait on counsel in the meantime.

149 Commissioner Cortés said the other issues that have arisen are in regards to EPBs
150 and connectivity issues. ELECT called the vendors, who communicated with the localities
151 for some resolutions, and election officials provided voters with some alternatives.
152 Secretary McAllister asked if Loudoun County's power was back up, and the
153 Commissioner responded that it was. Chairman Alcorn asked which EPB vendor was
154 having issues, and the Commissioner responded it was the Advocate system.

Secretary McAllister asked for a sense of voter turnout. Commissioner Cortés informed the Board that turnout is not yet available, but the number of absentee ballots, notably for the gubernatorial election, surpassed the number of absentee ballots in previous elections in not just the number of absentee applications, but also in the number of returned ballots. The increase in applications was roughly 40%, while the increase in returned ballots was 30% higher. The Commissioner attributed this to an increase in in-person absentee voting and online absentee ballot requests through ELECT's citizen portal, with a drop in the number of requests coming in by mail.

Vice Chair Wheeler asked about poll watchers. Commissioner Cortés relayed that reports from a few localities that said poll watchers were attempting to assist or interact with voters in the polling places. ELECT reminded election officials that poll watchers cannot do that. Vice Chair Wheeler also mentioned an issue in the City of Williamsburg where election officials allegedly not taking student identification from the College of William and Mary. Commissioner Cortés said ELECT called the City of Williamsburg GR, who responded that these reports stemmed from students who were not registered in the locality but showed up to the polling places. The election officials provided provisional ballots to those who believed they were registered in the City. The Commissioner clarified that school identification is an acceptable form of voter ID.

The Board then recessed to reconvene at 6:00PM.

The Board reconvened at 6:11PM. Commissioner Cortés reported a minor issue in Richmond City at the Virginia Commonwealth University campus. The Commissioner said ELECT received reports of students being turned away from the polls, but after investigation, found that these students were not registered in the precinct but were registered around the Commonwealth. ELECT worked with registrars and an EB member was dispatched. Provisional ballots were offered to any individuals who believed they were registered in the precinct. Commissioner Cortés reported on a precinct in Chesterfield where an election official accidentally shut down an EPB for the evening. This prompted the election officials to have to process any remaining voters using provisional ballots. An EB member was dispatched to the precinct and the issue was resolved to the best of their ability given the situation.

Commissioner Cortés stated most of the reports of issues have been minor issues that were resolved quickly. The Commissioner acknowledged the Democratic and Republican party representatives that assisted throughout the day, and informed the Board that ELECT staff members would be in office until vote counting is done and all localities have reported for the evening. Chairman Alcorn asked what time the EPB was shut down in Chesterfield. Commissioner Cortés reported the EPB was shut down around 5:30PM. The Chairman asked if there was an appropriate number of provisional ballot envelopes available, and the Commissioner responded that they were. Vice Chair Wheeler shared that there was a power outage in Arlington, but not in any of the polling places. Secretary McAllister encourage bi-partisan transparency, and thanked the party representatives.

Chairman Alcorn asked if ELECT had a count of approximately how many calls and emails were received, and if election night reporting was ready. Commissioner Cortés said ELECT did not currently have a total for calls and emails, but could provide it at the next meeting. The Commissioner confirmed election night reporting was ready.

Chairman Alcorn then moved to adjourn the meeting. Vice Chair Wheeler seconded the motion, and the motion passed unanimously. Chairman Alcorn then adjourned the meeting. The meeting was adjourned at approximately 6:20PM. The Board did not set the date and time of its next meeting.

Secretary

Chair

Vice Chair